

THE MISSISSIPPI RIVER.

The constitutional power of Congress to make appropriations to restrain its flood waters, as well as to improve its navigation. The obligation of the Federal Government to do both.

SPEECH

OF

HON. NEWTON C. BLANCHARD,

OF LOUISIANA,

IN THE

HOUSE OF REPRESENTATIVES,

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WASHINGTON.
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S P E E C H
OF
HON. NEWTON C. BLANCHARD.

The House being in Committee of the Whole on the state of the Union, and having under consideration the bill (H. R. 9486) making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes—

Mr. BLANCHARD said:

Mr. CHAIRMAN: If any gentleman desires to speak in opposition to the bill under consideration or to the Mississippi River appropriation in it, I would be glad to yield the floor to such gentleman now, with the understanding that I am to follow after he concludes. If no gentleman desires to speak, then I would ask the indulgence of the House to submit some observations on the Mississippi River and the constitutional power and duty of Congress in reference to it.

Mr. MCADOO. Mr. Chairman, I would like to ask the gentleman from Louisiana a question with reference to a charge that was made in a newspaper published in Jersey City, in my district, with reference to this river and harbor bill. I think there must be some misapprehension about the facts, and I desire to ask the gentleman about it.

Mr. BLANCHARD. I yield to the gentleman from New Jersey for a question.

Mr. MCADOO. I will read an extract from the statement contained in the newspaper referred to:

The bill, unlike previous river and harbor appropriation bills, contains no provision whatever for the work being done by contract, no provision for advertising for bids, no provision for any competition for the work, no limitation of the discretionary power of the War Department in the expenditure of more than \$20,000,000. The various jobs which are to consume this vast sum of money may be given by the Secretary of War to any person, no matter whether competent or incompetent, responsible or irresponsible, and without any opportunity afforded to competent and responsible parties to undertake the Government work. As a matter of fact, and as everybody knows who is at all familiar with the way in which these things are done, the distribution of this work, the actual administration and control of it all, falls into the hands of the subordinates of the Secretary of War, who are regular army officers, and they do whatever they please with the work and the money.

The same statement has been sent to several other members of the House, and I had my attention called to it at the time it appeared in this newspaper. I procured a copy of the existing law and compared it with this bill, and I could see no material difference between them in these respects; but I would like to have from the gentleman from Louisiana, the former chairman of the Committee on Rivers and Harbors, a somewhat official avowal as to whether the statement is true or not.

Mr. BLANCHARD. As I caught the averments of the statement read by the gentleman from New Jersey [Mr. MCADOO] I would state unhesitatingly that there is not a particle of truth in any of them.

The money appropriated for river and harbor improvements by this

bill, as well as by former bills, is directly under the control in specific terms of the Secretary of War, to be expended under his direction, and all the usual safeguards are thrown around its expenditure. As regards the letting out of the works under contract, there is no inhibition of this in the bill. The work contemplated by these appropriations can be done under contract, or under the immediate supervision of the Army engineers, as the War Department and the Chief of Engineers may deem most advisable for the interests of the Government.

As to there being jobs in the river and harbor bill, that allegation is made every time a river and harbor bill is presented to Congress for consideration. It is an "old chestnut" which should not disturb the mind of any gentleman, no matter if charged, as it sometimes is, by reputable newspapers.

I am here to state, after an experience of some years of service upon the River and Harbor Committee of the House, that in my opinion no money is expended from which the people derive greater benefit than the money expended in the improvement of the rivers and harbors of the country. You may talk about interstate-commerce laws to regulate the freight charges of railroads, but I believe a judicious river and harbor bill, improving the navigation of our water ways, will do more to solve that problem than a dozen interstate-commerce laws.

Another charge in the newspaper statement referred to by my friend from New Jersey is that this bill differs from previous river and harbor bills in certain material respects. There is nothing in this bill dissimilar from previous river and harbor bills. The bill has been constructed upon the same lines with former bills of a similar character.

But, Mr. Chairman, I rose more particularly to address the House in respect to the Mississippi River.

Mr. ROGERS. Mr. Chairman, I would like to put a question to the gentleman from Louisiana [Mr. BLANCHARD].

Mr. BUCHANAN, of New Jersey. Will it interrupt the gentleman from Louisiana if I ask him now a question on the line he has been discussing?

Mr. BLANCHARD. I yield to the gentleman from New Jersey.

The CHAIRMAN. The gentleman from Arkansas [Mr. ROGERS] addressed the Chair.

Mr. BLANCHARD. Then I yield first to the gentleman from Arkansas, stating to the gentleman from New Jersey that I will yield to him next.

Mr. ROGERS. I simply wished at this time to inquire of the gentleman from Louisiana whether it would be inconvenient for him to divert his attention a moment from the Mississippi River to some other matters of a more local nature before making his remarks on that river. But if he prefers I will desist at this time and address him later.

Mr. BLANCHARD. I would prefer, if it suits the gentleman from Arkansas, to go on for awhile in the submission of such observations as I may care to submit in reference to the Mississippi River appropriation.

I now yield for a moment to the gentleman from New Jersey [Mr. BUCHANAN].

Mr. BUCHANAN, of New Jersey. I wish to ask the gentleman this question: In the absence of any provision in this bill as to advertising for contracts, etc., would not the provisions of the general statute apply?

Mr. BLANCHARD. They would undoubtedly.

Mr. Chairman, the fact that a great and disastrous flood has recently

occurred in the lower valley of the Mississippi River is a sufficient excuse, if excuse were needed, for taking a little time in calling the attention of the House and the country to the Mississippi River. That great river has a way periodically of overflowing its banks, to the great destruction of the property of our citizens, and in many instances the destruction of human lives. It is time that the country, time that the Congress of the United States should wake up to the idea that something must be done to harness that great river in order that it may afford not only a safe highway to the commerce and trade of the country, but that there may be a safe and easy passage of its waters to the Gulf. The time has come for the popular sentiment of the country to make itself heard and felt in support of the proposition that the Government of the United States ought to lend its helping hand, not only in the line of the improvement of the channel navigation of the river, but also to control the river with respect to preventing its floods.

Mr. Chairman, the Mississippi River is the great sewer of our country. It drains the waters that fall upon more than twenty-five States of this Union. Even the rain that falls upon the southern portion of the great Empire State of New York finds its way to the Gulf of Mexico through the soil of the State of Louisiana. Steam-boats have penetrated as far as the town of Olean, in the State of New York, away up on the Alleghany River; and beyond it a portion of the rainfall in the northeastern section of the Union pours into the Alleghany River, which in turn pours into the Ohio, which in turn empties into the Mississippi, and then into the Gulf. And from that point, away to the westward, far beyond Fort Benton in Montana—ay, to the tops of the Rocky Mountains—this great drainage basin extends. From the Canadian line on the north to the sun-kissed waves of the Mexican Gulf on the south, the rainfall of nearly one-half the entire northern portion of the American continent finds its way through the State of Louisiana to the sea. We wish you gentlemen who represent the mountain and hill districts of the Northeast, the prairie districts of the North and Northwest, to lend us your helping hand in order that the Mississippi River may safely discharge your surplus waters through the soil of the devoted State of Louisiana.

The Mississippi River, Mr. Chairman, is too great a national feature of our country to be handled by any State or aggregation of States. No other power than that of the National Government is potential enough to take it in hand and make it perform its twofold function of affording a national highway for the commerce of the Republic and of discharging its flood-waters safely into the Gulf of Mexico. If this river drained any one of the great nations of Europe it would long since have had dikes or levees erected along its banks of sufficient height and strength to restrain its floods.

The river is the property of the Federal Government. It is its property in the sense that its jurisdiction over it is paramount to that of the States which border upon it. The States can not say what shall be done with the river or to it, nor how it shall be treated. They are not permitted to divert it or change its course, nor to injure or interfere with its navigation.

I will dwell briefly, Mr. Chairman, on that idea. Suppose Congress should withhold its hand and its money, and do nothing towards restraining the flood waters of the river and preventing inundations. In default of such action by the General Government the right of self-preservation arises, and the States and individuals in the valley are themselves entitled to take the matter in hand and resort to such means as they may devise to control the flood discharge of the river for their own protec-

tion and for the protection of their property. Suppose, then, that the dwellers in the lower valley of the river, despairing of Congressional action, should resort to the plan of opening innumerable outlets all along the line of the river in every direction available, on the idea advanced by some, but denied by me, that outlets might contribute to preventing disastrous floods. They might so dissipate and scatter the waters of the river by means of these outlets that the navigable character of the great stream might be seriously impaired, if not entirely lost or destroyed. Suppose they were attempting such a thing, would not the strong arm of the Federal Government be extended to prevent it? Would not Congress say, "You shall not construct works or so treat the Mississippi River as to destroy its navigable character"? Undoubtedly. When Mr. Jefferson acquired the territory known as Louisiana from France the great and controlling idea actuating that acquisition was that the American Union should control the territory through which flows the Mississippi River, in order that the river might be forever open as a great highway for the commerce of the world.

The United States, then, is interested in preserving the navigable character of the river, and must necessarily check, by legislation or other means, the construction of works that may be designed to destroy, or which might have the effect of destroying its navigation. But could the Government do this without, in justice and fairness, assuming the obligation itself of so curbing and restraining the river as to give a safe and easy discharge of its flood waters? The question admits of but one answer. It could not.

Mr. Chairman, what the Federal Government has heretofore done, in respect to appropriations for the Mississippi River, has been based entirely upon the idea that the money must be used exclusively for the channel improvement of the river. The Government has not expended a dollar except upon the idea that the improvement of the navigation of the river was the direct object. It is true that some \$3,000,000 have been expended in ten years by the Mississippi River Commission in co-operation with the States and levee boards in levee building, but it has been upon the idea, held by a majority of the river commission, that levee building, which means artificial walls to trail down the flood waters of the river between, are necessary adjuncts to channel improvement. It is time for Congress to go a step further; not only to appropriate money for the purpose of improving the navigation of the river, but also directly for the purpose of preventing its floods; and it is to advocate that idea that I have taken the floor to-day.

Appropriations made by Congress, Mr. Chairman, for this river should not be limited and restricted to works essential alone for the channel navigation of the river. Congress ought to be generous and liberal enough to go further and make appropriations for the lower river, from Cairo to the Gulf, for the object of preventing floods as well as of improving navigation. It has been doubted, sir, in many quarters that there is constitutional authority in Congress to do this. The constitutional authority to appropriate money for purposes of the channel improvement of the river to benefit navigation, is not denied under the power in the Constitution to regulate commerce; but it is denied by some that there is any warrant in the Constitution for Congress to go further and appropriate money for the direct purpose of restraining the flood waters of the river.

Mr. OATES. Mr. Chairman, will the gentleman permit an interruption?

Mr. BLANCHARD. Certainly.

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Mr. OATES. What would be the difference between appropriating money to improve the channel of the river by other means than that of levees, and appropriating it to improve the river by building levees, if that was, in part, the plan adopted for the improvement of the river?

Mr. BLANCHARD. There would be no difference. The money heretofore expended on the river for the purpose of levee building to restrain the floods has been based entirely upon the idea, as I have said, that levee building is a necessary adjunct to channel improvement. But, Mr. Chairman, the restrictive clauses, always attached to the appropriation for the Lower Mississippi River, have fettered the operations of the Mississippi River Commission and prevented them from going as far as they otherwise would go in levee building, especially at points along the river where levee construction might have no bearing upon channel improvement, but which was necessary and desirable to prevent inundation.

Mr. Chairman, while somewhat of a strict constructionist of the Constitution, I have no trouble in deducing authority from that instrument justifying Congress in appropriating money for the twofold purpose of improving the navigation of the river and of restraining its flood waters.

Mr. HILL. Will the gentleman yield for a question, as I want to clearly understand the matter?

Mr. BLANCHARD. Certainly.

Mr. HILL. As I understand the argument of the gentleman, it is to this effect, that there are stretches or portions of the navigable part of the river that do not need these embankments or levees for the purpose of navigation.

Mr. BLANCHARD. There may be such stretches in the river.

Mr. HILL. But they do need them for the purpose of protecting the settlers on either side on the land?

Mr. BLANCHARD. Need them to prevent destructive floods. Under the language which is embodied in this bill, and which has always obtained, in respect to the appropriation for the Mississippi River, levees can not be erected except as aids to navigation.

Now, I think it is time for Congress to omit this restrictive clause from appropriations intended for the Mississippi River. That language is this:

Improving Mississippi River from Head of the Passes to the mouth of the Ohio River, including salaries and traveling expenses of the Mississippi River Commission: Continuing improvement, \$2,000,000, which sum shall be expended, under direction of the Secretary of War, in accordance with the plans, specifications, and recommendations of the Mississippi River Commission: *Provided*, That no portion of this appropriation shall be expended to repair or build levees for the purpose of reclaiming lands or preventing injury to lands or private property by overflows: *Provided, however*, That the commission is authorized to repair and build levees, if in their judgment it should be done, as part of their plans to afford ease and safety to the navigation and commerce of the river and to deepen the channel.

This language prohibits the expenditure of money for levee construction except as part of the plan of the river commission to afford ease and safety to the navigation and commerce of the river and to deepen the channel. It will be seen that it does not authorize the expenditure of money to prevent the disastrous floods which periodically occur upon the river. I am appealing to Congress to go beyond that. The very act creating the Mississippi River Commission contemplates that Congress shall go beyond it. The fourth section of that act is as follows:

That it shall be the duty of said commission to take into consideration and mature such plan or plans, and estimates, as will correct, permanently locate, and deepen the channel and protect the banks of the Mississippi River, improve and give ease and safety to the navigation thereof, prevent disastrous floods, and promote and facilitate commerce, trade, and the postal service.

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Heretofore, Congress has only carried out in part the letter and spirit of that act. I am pleading that it be now carried out in full. The recent overflow and past overflows have demonstrated that the piecemeal system of levees, which the impoverished States of the South have been enabled only to construct, is not sufficient to prevent the inundations of the great river. A complete levee system is the only means of restraining the flood waters of the river. The trouble with the present levees on the river is that they have not been constructed under any general and continuous system. The Federal Government alone has the power and means to do this. The present levees have been built by piecemeal by the States, local levee boards, and individuals, as best they could.

The people of the State of Louisiana tax themselves in two ways to build levees—one is by a direct State tax, the money raised from which is disbursed under the authority of the State government; the other by a levee district tax. Under the constitution of Louisiana the Legislature of the State is authorized to subdivide the alluvial parts of the State into levee districts with taxing power, and that has been done. Each of these districts levies a tax upon all the taxable property within its limits, and the money thus raised is expended in constructing or repairing levees by the district levee boards. But the State and levee district boards are confined to the territorial limits of the State. They can not go beyond the limits of the State, into the States north of us, and continue the system of levees, even if they had the means to do so. The State of Arkansas has no levee districts, and no tax is levied in that State generally for the construction and repair of levees. In the State of Mississippi they have levee taxing districts. But the moneys raised by Louisiana and Mississippi and their levee district boards are not expended on a continuous and connected system of levees constructed on scientific principles, and no power can undertake the construction of such a connected systematic line of levees except the Government of the United States. Hence the necessity and advisability of the Government of the United States undertaking the work.

I said awhile ago, Mr. Chairman, that there was ample constitutional authority for Congress to do this. Let us now examine a little into that question.

INVASION OF AN ENEMY.

An enemy invades us. Our people fly to arms. Points of defense are strengthened. The eye of strategy selects other points to be fortified and defended. Congress votes the money, and immediately long lines of breastworks guard our frontier where attack is apprehended.

But, sir, here is an enemy who comes in the form of raging waters, sweeping down in resistless might from the North upon the sunny valleys of the West and South, bringing devastation, destruction, death. He raids through the country, rioting in ruin, and millions, panic-stricken, flee at his approach, leaving their all to be swallowed up in the wild vortex of destruction. The wasting presence lasts but a couple of months, but in that time there has been a destruction of property, present and prospective, equal in value to many millions of dollars.

Mr. Chairman, it is the duty of Congress to say to these people who have so recently experienced the disasters of inundation that, even as we would erect breastworks on our frontier to repel the threatened invasion of a warlike foe, so will we build levees along the great river to beat back its surging waters, threatening destruction well-nigh equal to what a human enemy could inflict.

But, it may be argued, the delegation of power to Congress to "repel invasions," "to protect the States against invasion," has reference to

a human foe. I grant that that is the usual and ordinary meaning or significance given to the term, and it is likely that the framers of the Constitution had in contemplation a human foe when they inserted that clause. The connection, too, in which it is used gives additional weight to that argument. But still, the power conferred by the words "repel invasions," by the clause "The United States * * * shall protect each of them (the States) against invasion," is a general one, and might well and reasonably include defending the country against danger or harm of any kind.

Suppose, sir, some monster, like the fabled dragon of ancient times, were to rise up out of the deep and invade the land, spreading devastation, destruction, pestilence, and death around him. Does any one doubt the constitutional power and duty of Congress to "repel" his invasion, to bring the strong arm of the Government to bear against him, to make war upon, and kill and destroy him? I think not. And yet, sir, there are gentlemen on this floor who deny to Congress the power to "repel" the invasion of waters, to throttle this monster of inundation whose periodical visitation of the fairest portion of our country is but the recurring occasion for a perfect carnival of waste, ruin, rapine.

It is the duty of Congress to protect the States, or any one of them, against invasion. By "invasion" is meant against harm or danger to the Government, the people, the country, threatened by an enemy. An enemy is only to be dreaded because of the suffering, destruction, death he may inflict. Judged by that standard, was not the recent great overflow in the alluvial basin of the Mississippi "an enemy?" None will deny its potency as an engine of suffering, destruction, and death. Why, then, can not Congress under this clause of the Constitution protect the Valley States against a recurrence of this "invasion" of waters?

Again, it is made the constitutional duty of Congress to protect each of the States, under certain conditions, against "domestic violence." Why not against the violence of domestic waters? I say "domestic waters" for the reason that it is a fact that all the water which seeks an outlet to the sea through the Mississippi is the drainage of the territory of the United States, and in that sense is domestic, as pertaining to home; not foreign.

REGULATING THE PROPERTY OF THE UNITED STATES.

The Constitution (Article IV, section 3) provides—

That Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

In the *Gratiot* case (14 Peters, 537) the Supreme Court of the United States, construing the above clause, said:

The term "territory," as here used is merely descriptive of one kind of property, and is equivalent to the word "lands." And Congress has the same power over it as over any other property belonging to the United States; and this power is vested in Congress without limitation.

In the case of *McCulloch vs. Maryland* (4 Wheaton, 422) the Chief-Justice, as the organ of the court, speaking of this clause of the Constitution and the powers of Congress growing out of it, applies it to Territorial governments, and says all admit their constitutionality.

Story says (volume 2, page 228):

No one has ever doubted the authority of Congress to erect Territorial governments within the territory of the United States, under the general language of the clause "to make all needful rules and regulations."

He continues:

The power is not confined to the territory of the United States, but extends to

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"other property belonging to the United States;" so that it may be applied to the due regulation of all other personal and real property rightfully belonging to the United States. And so it has been constantly understood and acted on.

Now, then, if the Mississippi is the property of the General Government, it is as much subject to "regulation" as the landed property or territory of the United States. And this power to regulate includes curbing, controlling, restraining the river within its own proper metes and bounds by means of levees, dikes, or other works, as Congress may, in its discretion, see proper to adopt; for, in the language of the Gratiot case, "this power is vested in Congress without limitation."

But it may be denied that the Mississippi River is the property of the United States in the sense that Congress may, under the power to regulate, direct the construction of works to restrain its waters within their proper channel. Mr. Chairman, the Mississippi River is a great

NATIONAL HIGHWAY.

It belongs as much to the United States as would a great trunk-line of railroad that had been constructed, stocked, and was being operated by the Government. In the act of Congress enabling the people of Louisiana to form a constitution there is a provision that the State convention shall "pass an ordinance providing that the River Mississippi and the navigable rivers and waters leading into the same or into the Gulf of Mexico shall be common highways and forever free, as well to the inhabitants of the said State as to other citizens of the United States." And in the act for the admission of Louisiana the above provision as to the navigation of the Mississippi is made one of the fundamental conditions of the admission. Similar conditions were likewise imposed upon the admission of the States of Mississippi, Missouri, and Arkansas.

In the case of *The United States vs. The New Bedford Bridge* (Woodbury & Minot's Reports, 421), Mr. Justice Woodbury used the following language:

For purposes of foreign commerce and of that from State to State, the navigable rivers of the whole country seem to me to be within the jurisdiction of the General Government, with all the powers over them for such purposes (whensoever they choose to exercise them) which existed previously in the States or now exist with Parliament in England.

In the case of *Corfield vs. Coryell* (4 Washington Circuit Court Reports, 379), Mr. Justice Washington said:

The grant to Congress to regulate commerce on the navigable waters belonging to the several States renders those waters the public property of the United States for all purposes of navigation and commercial intercourse, subject only to Congressional regulation.

And in the case of *Gilman vs. Philadelphia* (3 Wallace, 724), it was said:

The power to regulate commerce comprehends the control for that purpose, and to the extent necessary, of all the navigable waters of the United States which are accessible from a State other than those in which they lie? For this purpose they are the public property of the nation, and subject to all the requisite legislation of Congress. This necessarily includes the power to keep them open and free from any obstruction to their navigation, interposed by the States or otherwise; to remove such obstructions when they exist, and to provide by such sanctions as they may deem proper against the recurrence of the evil, and for the punishment of offenders. For these purposes Congress possesses all the powers which existed in the States before the adoption of the national Constitution, and which have always existed in the Parliament in England. It is for Congress to determine when its full power shall be brought into activity, and as to the regulations and sanctions which shall be provided.

It can not, therefore, be doubted that the river, for all practical purposes, is the property of the General Government and subject to its "regulation," whether as respects prescribing rules for governing the commerce and traffic which make use of it as a highway, or as respects

controlling it in the sense of denying the dominion and jurisdiction of the States, or other powers; or as respects preventing the river from rising up out of its customary channel and spreading over the country. It is true, the banks of the river and soil under the river belong respectively to the owners of the soil adjacent to the river, but no one will deny to the General Government the right to make use of the banks and soil in the erection of the works requisite to the proper "regulation" of the river for all useful purposes. Should, however, this right be questioned there can be no doubt of the power of the Government in the exercise of the prerogative of eminent domain, to expropriate whatever may be needed for the proper "regulation" of the river.

The law on this subject is universally recognized, as laid down by Bynkershoek, that "this eminent domain may be lawfully exercised whenever public necessity or public utility requires it."

It may be objected by some, Mr. Chairman, that should the Federal Government provide the ways and means for the construction of a levee system for the protection of the alluvial valley of the river, and as an adjunct to the improvement of its navigation, inasmuch as these levees will have to be constructed on the banks over which the jurisdiction of the States respectively extend, contention may arise between the State government and the National Government on this point; that the State government might deny the right of the National Government to control the levees, to protect them after constructing them, and that the question thus raised may become a fruitful source of trouble between the sovereignty vested in the State and that reposing in the Federal Government.

I am not one of those who apprehend that any trouble on this score would ever arise, but as a precautionary measure Congress might, if it sees fit, after having determined upon a levee system, enact that there should be no expenditure of money for such purpose within the territorial limits of a State until the State shall have ceded to the National Government the right to control and protect the public works to be constructed.

The State, Mr. Chairman, which I have the honor to represent in part on the floor of this House has already led off in that direction. In the constitutional convention of Louisiana which convened in 1879, and which framed the organic law under which that State is now governed, I, as a member of the convention and as chairman of its committee on Federal relations, acting on the suggestion of Hon. E. W. Robertson, then a Representative in Congress from the Sixth district of Louisiana, and chairman of the Committee on Levees and Improvements of the Mississippi of the House, reported to the convention the following ordinance, which was adopted, and now stands as part of article 215 of the constitution of 1879 of Louisiana, to wit:

The Federal Government is authorized to make such geological, topographical, hydrographical, and hydrometrical surveys and investigations within the State as may be necessary to carry into effect the act of Congress to provide for the appointment of a Mississippi River Commission for the improvement of said river from the Head of the Passes near its mouth to the headwaters, and to construct and protect such public works and improvements as may be ordered by Congress under the provisions of said act.

Under this article full authority is given the National Government to construct such public works along the Mississippi as Congress may see fit to order, and the control of the same after their construction is ceded to the National Government.

Sir, the State of Louisiana, in incorporating this grant of authority in her organic law, recognized what is now generally conceded, namely, that there is no power competent to handle the questions presented by

this great river except that of the Federal Government. No State can do it.

First. Because the work is too vast, too costly for any State through which the river runs to undertake it.

Second. Because any State attempting it would be circumscribed by its own territorial limits.

Third. Because the river being the property of the United States, Congress alone has power, under the grant to "make all needful rules and regulations respecting the territory or other property belonging to the United States," to say what works shall be done or plans adopted for its regulation.

POST-OFFICES AND POST-ROADS.

Under the authority "to establish post-offices and post-roads" the Government of the United States has established thousands of the former in the alluvial valleys of the Mississippi and its tributaries, and provided a perfect network of the latter. Daily over thousands of miles of roadway and railway and water way in the great valley is the United States mail carried, supplying innumerable post-offices and affording facilities indispensable for the dissemination of intelligence, for the diffusion of the market reports, the crop and commercial reports, and the news generally so absolutely needed for the welfare, the happiness, and the prosperity of the people and the country.

Millions of money, besides great labor and much valuable time, have been expended in building up and perfecting this system, which in the normal state of the country moves with the precision, ease, and regularity of well-ordered machinery. But periodically the great river swells up out of its banks and becomes a great inland sea, producing an abnormal condition of affairs, and disarranging, stopping, destroying for the time being the postal service, the transportation and delivery of the mails.

On our statute-books, as the enactments of Congress, stand stringent penal laws denouncing penalties against any and all who shall willfully impede, interfere with, or stop the mails; and the courts of the United States hold sittings all over the valley to enforce these laws. But here is a great convulsion of nature, as it were, that stops not one mail but a thousand, that breaks up not one post-office but hundreds, and against which the courts and the criminal laws for the protection and security of the mails avail nothing. But to prevent a recurrence of this is the strong arm of the Government powerless? No. Scientific, wise, experienced men, who have made a study of the river and its phenomena, of the laws of its currents, and of the conditions that affect it, say no! They have pointed out how these destructive floods can be avoided, and thus how the mails of the United States, their carriage and delivery, can be protected.

Now, then, does any one doubt that from the authority "to establish post-offices and post-roads" flows not only the power but the duty to protect them? No reasonable man can doubt it. No lawyer will hesitate for an instant to declare that the power to protect is incidental to the power to establish. The constitutionality of the laws denouncing penalties against the stoppage of or interference with, the mails has never been doubted. Yet they were enacted for the protection of the mails, and depend for their validity upon the power to protect being incidental to the power to establish. Says the Supreme Court of the United States, in 4 Wheaton, 417:

TO ESTABLISH POST-OFFICES AND POST-ROADS.

This power is executed by the single act of making the establishment. But from this has been inferred the power and duty of carrying the mail along the

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post-road from one post-office to another. And from this implied power has again been inferred the right to punish those who steal letters from the post-office or rob the mail. It may be said with some plausibility, that the right to carry the mail and to punish those who rob it is not indispensably necessary to the establishment of a post-office and post-road. This right is indeed essential to the beneficial exercise of the power, but not indispensably necessary to its existence.

Yet no one doubts or denies the right or power of the Government to punish the robber of the mails. Now, then, is it not just as legitimate, just as constitutional, to protect against the ravages of the water as against the knavery of the robber?

TO REGULATE COMMERCE.

The power of Congress to regulate commerce includes the regulation of intercourse and navigation. (18 Howard, 421.)

Says Story, volume 2, page 4:

Commerce undoubtedly is traffic; but it is something more. It is intercourse. It describes the commercial intercourse between nations and parts of nations in all its branches, and is regulated by prescribing rules for carrying on that intercourse.

This power to regulate commerce is a very general one, and a wide latitude of construction has been given it.

If a levee system tends, in any appreciable degree, to afford ease and safety to commerce, to intercourse, which is essential to the carrying on of commerce, then an appropriation of money by Congress to construct such a system finds abundant justification in this grant of power.

The Mississippi River Commission, in their report of February 17, 1880, say regarding levees:

There is no doubt that the levees exert a direct action in deepening the channel and enlarging the bed of the river during those periods of "rise" and "flood" when, by preventing the dispersion of the flood-waters over the adjacent lowlands, either over the river banks or through bayous and other openings, they actually cause the river to rise to a higher level within the river-bed than it would attain if not thus restrained.

They give safety and ease to navigation, and promote and facilitate commerce and trade by establishing banks or landing places above the reach of floods, upon which produce can be placed while awaiting shipment and where steam-boats and other craft can land in time of high water. * * * In a larger sense, as embracing not only beneficial effects upon the channel but a protection against destructive floods, a levee system is essential, and such a system also promotes and facilitates commerce, trade, and the postal service.

To the same effect are the subsequent reports of the commission and the statements of the individual members thereof before the committees of this House.

Prior to the act creating this commission a board of engineers was appointed on the improvement of the low-water navigation of the river below Cairo, Ill. In their report to the Chief of Engineers, dated January 25, 1879, on the "effect of a permanent levee system on the Mississippi below the mouth of the Ohio River," they say:

To deal with the question whether there is any connection between levees and facilities for shipping, commerce, and navigation at high stages, we refer to the actual condition of things. We find that throughout all the extension of the Mississippi along which the levee system is practically efficient, and where the marginal lands are generally cleared and cultivated, the levees have been an important aid to commerce. * * * Below the mouth of the Arkansas, as far down as the forts below New Orleans, the levees have been long enough in existence to give evidence of their effect, direct and indirect. Immediately behind them are the cultivated lands, the plantations whence come sugar, cotton, and other valuable staples. To each one of these plantations not only is the levee the protecting agent which renders their cultivation practicable, but it is during floods the landing-place of the steam-boats, barges, or flat-boats which bring their supplies and carry their productions away.

In the lower river, through the regions where the margins are under cultivation, the levees are generally laid close to these margins and afford, as has already been stated, useful facilities for commerce in making practicable the com-

ing alongside of steamers and the receiving of the products of the plantations and discharging freights for the use of the same or for the back country. In ordinary rises the natural banks are not overflowed, but when that happens in "flood" years they (the levees) serve a purpose in still defining the channel.

From testimony like this it can not be doubted that levees aid not only in improving the navigation of the river, but are themselves factors in the giving of ease and safety to commercial intercourse.

If the Federal Government can legitimately spend millions in affording facilities to commerce by improving the low-water navigation of rivers, by parity of reasoning it may just as legitimately spend millions in improving the high-water navigation of rivers like the Mississippi, liable to overflow their banks. And the weight of evidence ten times over is that for the Mississippi and its tributaries a levee system is the most efficient method of improving their high-water navigation.

By the navigation of rivers is meant not alone the passage of steamers and other craft up and down, but in a larger sense it includes likewise facilities for landing along the rivers for the loading and unloading of cargoes, the taking on and putting off of passengers, etc. In other words, it embraces the affording of all needful facilities for intercourse, trade, traffic, and commerce, besides the width, depth, and extent of water requisite for the safe passage of boats.

Again, navigation is only one of the elements of commerce. It is an element of commerce because it affords the means of transporting merchandise and the products of the country, the interchange of which is commerce itself. The river is but an instrument of commerce.

The power to regulate commerce is a power to regulate the instruments of commerce. (*Gray vs. Clinton Bridge*, 16 American Law Register, 152.)

It extends to the persons who conduct it as well as to the instruments used. (*Cooley vs. Board of Wardens*, 12 Howard, 316.)

The commerce of the river and the commerce across the river are both commerce among the States, and may be regulated by Congress, and should be regulated by that body when any regulation is necessary. (16 American Law Register, 154.)

It is now conceded that Congress, under the commercial clause, may regulate railroads. May it not also regulate the Mississippi, a national highway and an instrument which commerce makes use of, so as to prevent it disturbing the commerce and intercourse going on by rail and by land in its valley?

The term "to regulate commerce" gives the power to restrain the destructive force of the thing used by commerce in its transactions. It is an incongruity to say that Congress, in the exercise of that power, may deepen or enlarge a river but can not curb its force or exercise restraint over it.

The power "to regulate commerce" necessarily includes protection to commerce. This idea has been acted on from the commencement of the Government. The construction and maintenance all along our coasts of light-houses, beacon-lights, fog-signals, sea-walls, and break-waters attest this. All are for the protection and convenience of commerce.

The laws of the United States require steam-vessels to pay for the license or privilege to navigate, and the officers manning such vessels are required to pay for the license or privilege of pursuing their respective calling or vocation, such as master, pilot, mate, etc. These vessels engage in the coasting trade as well as in the carrying trade, and Congress is as much under obligations to afford the needful facilities for the transaction of this coasting trade as it is for the transportation of through freights. One of the facilities needed along the Mississippi for the coasting trade is convenient landing-places at all times.

In seasons of flood, these landing-places are supplied by the levees,

and, in this sense, levees are but continuing piers or quays. A quay is defined to be a space of ground appropriated to the public use, such use as the convenience of commerce requires. Now, while the levees perform this service, while they furnish these needed conveniences to commerce, should it be objected that, at the same time, they protect the country behind them from overflow? Suppose they do protect private property while performing a public service, should they not be commended all the more for that? Should not that circumstance really be an additional inducement or argument for their construction?

Should not broad and liberal statesmanship, in considering a question of this sort, rather approve of a system which, while subserving the public interests, at the same time affords needed protection to the life and property of the individual? *Salus populi suprema lex*. Sir, protection to private property in some way results from nearly every work of public import. If a street in a town or city be graded, paved, macadamized, the property belonging to individuals on that street experience an enhancement of value as the result of such improvement.

Every railroad constructed through a country increases the value of the lands adjacent thereto. Every grand, imposing public building erected in this city (Washington), and every park laid out, beautified, adorned, adds something to the worth of neighboring private estates.

POLICE POWER OF THE GOVERNMENT.

This question of regulating the Mississippi certainly comes within the general police power of the Government, under which power "persons and property are subjected to all kinds of restraint and burdens in order to secure the general comfort, health, and prosperity of the state." (27 Vt., 149; quoted approvingly in 5 Otto, 471.) In the latter case the Supreme Court, speaking of the deposit in Congress of the power to regulate commerce, say:

What that power is it is difficult to define with sharp precision. It is generally said to extend to making regulations promotive of domestic order, morals, health, and safety. As was said in *Thorp vs. The Rutland and Burlington Railroad Company*, 27 Vt. 149, it extends to the protection of the lives, limbs, health, comfort, and quiet of all persons, and the protection of all property within the state. According to the maxim, *Sic utere tuo ut alienum non ledas*, which, being of universal application, it must of course be within the range of legislative action to define the mode and manner in which every one may so use his own as not to injure others.

If the Government fails to exercise its police powers to control its property, and this property, like a great river, rises and inundates the country, and great damage to individuals results, the Government is, or ought to be, responsible.

Take the case of an Indian tribe placed by the Government upon a reservation, and over which it exercises jurisdiction and surveillance. From some cause an outbreak occurs. The Indians throw off the restraint they are under, band themselves together, commence hostilities, and raid the surrounding country. For the damage and loss occasioned individuals by such an outbreak the Government has repeatedly acknowledged its liability, and Congress has over and over again appropriated money to make good such losses.

Now, why should it not be equally responsible for losses occasioned by the Mississippi when it in time of flood raids the adjacent country? The Government not only assumes paramount jurisdiction over the river, but asserts a proprietary interest in and to it.

Why, then, should it not be under obligations to restrain and control it, equal to the restraint and control it admits it should exercise over an Indian tribe placed by it upon a reservation?

If a railroad train kills the stock of a man a suit lies to enforce payment of the value of the stock from the company. But the great Mississippi rises, and, by the neglect of the Government to protect its banks by dikes, overflows, causing the destruction of millions in value of property. No suit against the Government can be filed, for this great and free Republic does not permit what the veriest despotisms of foreign lands allow, namely, the general right to its citizens to sue the Government in any court of competent jurisdiction for injuries sustained by the act of commission or omission of the Government.

THE GENERAL WELFARE.

The first clause of section 8, Article I, of the Constitution prescribed that "Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States."

I agree with the interpretation that the above clause was not intended to invest Congress with the independent and general power "to provide for the general welfare;" and that the latter part of the clause, to wit, "to pay the debts and provide for the common defense and general welfare," is but a modification or qualification of the preceding part, namely, "Congress shall have power to lay and collect taxes," etc.

Nothing more was granted by that part ("to pay the debts and provide for the common defense and general welfare") than a power to appropriate the public money raised under the other part ("to lay taxes," etc.).

Said Thomas Jefferson:

To lay taxes to provide for the general welfare of the United States is to lay taxes for the purpose of providing for the general welfare. For the laying of taxes is the power and the general welfare the purpose for which the power is to be exercised. Congress are not to lay taxes *ad libitum* for any purpose they please; but only to pay debts, or provide for the welfare of the Union.

Under this interpretation, while a general power to legislate for the "general welfare" is excluded, Congress is still authorized to provide money for the common defense and general welfare, and this is quite broad enough for the practical purpose we have in view. Indeed, the power to lay taxes is in express terms given to provide for the common defense and general welfare. And, as laid down by Story:

It is not pretended that when the tax is laid the specific objects for which it is laid are to be specified, or that it is to be solely applied to those objects.

It suffices that all taxes must generally be laid for one or all of three purposes, namely, to pay the debts, to provide for the common defense, or the general welfare. And when the money has accumulated in the Treasury, from taxes laid for any or all of these purposes, as said by President Monroe in his message of May 4, 1822:

The power of appropriation of the moneys [by Congress] is coextensive; that is, it may be appropriated to any purpose of the common defense and general welfare.

In other words, if operating under the latter clause, the taxes laid must be applied to some particular measure conducive to the general welfare. Or, as laid down by Story, volume 2, page 162:

The only limitations upon the power [to appropriate money in aid of internal improvements] are those prescribed by the terms of the Constitution, that the objects shall be for the common defense, or the general welfare of the Union. The true test—

He continues—

is whether the object be of a local character and local use, or whether it be of general benefit to the States. If it be purely local Congress can not constitutionally appropriate money for the object. But if the benefit be general it mat-

ters not whether in point of locality it be in one State or several, whether it be of large or of small extent; its nature and character determine the right, and Congress may appropriate money in aid of it, for it is then in a just sense for the general welfare.

It is not only right, but the bounden and solemn duty of Congress to advance the safety, happiness, and prosperity of the people and to provide for the general welfare by any and every act of legislation within constitutional limits, which it may deem to be conducive to those ends. No one, Mr. Chairman, will have the temerity to question the proposition that the protection of the extensive alluvial valley of the Mississippi from destructive floods will be, in the national sense of that term, conducive to the general welfare. Not one State, but a dozen; not a few thousand people, but millions are directly interested and affected for weal or woe according as this protection is extended or withheld. One overflow, as hereinbefore stated, has caused the destruction of many million dollars' worth of property, without taking into consideration the human and animal suffering and death inflicted by it. Does any sane man doubt that providing against the recurrence of such a public calamity is promoting the general welfare?

But it is unnecessary, Mr. Chairman, to dwell upon this. The point is conceded. No man of reflection will gainsay that if it were to the general welfare that we should acquire this territory, as we did, from France, it is equally conducive to the general welfare to preserve it as a habitable, cultivable country; to protect it against relegation to its primeval condition of jungles and swamps. The words of Chief-Justice Bigelow, of Massachusetts, in the case of *Talbot vs. Hudson*, 24 Law Reports, 228, are here singularly appropriate:

In a broad and comprehensive view * * * everything which tends to enlarge the resources, increase the industrial energies, and promote the productive power of any considerable number of the inhabitants of a section of the state [Union], or which leads to the growth of towns and the creation of new sources for the employment of private capital and labor, indirectly contributes to the general welfare and to the prosperity of the whole community.

Congress has exercised, not without question, it is true, but long enough for acquiescence to take place, the power to lay taxes to protect and encourage domestic manufactures.

This has been and is being done, on the ground that it is conducive to the general welfare to protect and encourage domestic manufacturers. But it is not one whit more conducive to the general welfare, if as much so, than protecting the finest portion of our country for cultivable purposes is.

Indeed, sir, there are millions of our people who believe that it is not to the general welfare to continue longer the tariff laws for the protection of domestic manufactures. But there are few, if any, who do not admit that it is directly in the line of the public welfare to protect from inundation the magnificent sugar, cotton, corn, rice, and wheat lands of the great Mississippi Basin.

All must admit, Mr. Chairman, that the powers of the Government are limited and that its limits are not to be transcended. But, as was observed by the Supreme Court of the United States in *4 Wheaton*, 421, the sound construction of the Constitution must allow the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it in the manner most beneficial to the people.

Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.—*Id.*

In *McCulloch vs. Maryland* (4 Wheaton, 415) Chief-Justice Marshall aptly referred to the Constitution as "intended to endure for ages to come, and consequently to be adapted to the various crises of human affairs."

And in *Hunter vs. Martin* (1 Wheaton, 304) it was said:

The instrument (Constitution) was not intended to provide merely for the exigencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence. It could not be foreseen what new changes and modifications of power might be indispensable to effectuate the general objects of the charter. * * * Hence its powers are expressed in general terms, leaving the Legislature, from time to time, to adopt its own means to effectuate legitimate objects, and to mold and model the exercise of its powers as its own wisdom and the public interests should require.

Mr. Chairman, when the great Father of Waters, unhindered by an adequate levee system, rises out of its banks and sweeps with resistless might over the valley, a more than crisis, a sad realization of the worst, is upon the people of that unhappy section, and this grievous affliction of one of the members of the body-politic in more or less degree disastrously affects the whole. Sir, against the recurrence of the like calamity, national in its effect, we ask the aid of the National Government. We hold that the powers delegated in general terms in the Constitution are broad and comprehensive enough to justify it, that the granting of national aid for such purpose is directly in the line of the effectuation of the legitimate objects of the charter.

Constitutions of government—

Says Story (volume 1, page 655)—

are not to be framed upon a calculation of existing exigencies, but upon a combination of these with the probable exigencies of ages, according to the natural and tried course of human affairs. There ought to be a capacity to provide for future contingencies as they may happen.

That this capacity exists in the Federal Constitution no one will deny. The trials it has undergone, the tests it has been put to and triumphantly emerged from, in the hundred years of its existence, abundantly attest it. Let this Congress, Mr. Chairman, give another evidence of this capacity by providing against the contingency of another great overflow; let this provision be ample and unrestricted; let it meet the case.

Mr. WILLIAMS, of Ohio. Before the gentleman from Louisiana sits down I would like to hear his views upon the question of the possibility of controlling the Mississippi River.

Mr. BLANCHARD. Mr. Chairman, the Mississippi River Commission unanimously declare that so far as preventing floods on the river is concerned a complete and perfect system of levees is the only method that will serve that end. They unhesitatingly condemn what is called the outlet system. This is the conclusion they have reached after years of study of the river. Recently in the Senate of the United States an impromptu discussion of the plan of improvement of the Mississippi River adopted by the river commission sprang up, and it was stated by a distinguished Senator from a Southwestern State that the levee system had proven a failure not only upon the Mississippi River but also upon rivers in the Old World, and he named the river Po in Europe and the Yellow River in China. He stated that levee construction upon the banks of those rivers, maintained for long periods of time, had had the effect of causing the bed or bottom of the river to rise, and consequently producing more disastrous floods than before.

As regards the Po, this statement rests upon the declaration of De Prony, a European engineer of note. But his theory was completely

demolished by the investigations made by Lombardini, the great Italian hydraulic engineer, who proved conclusively that the bed of the Po had not been raised at all through two centuries of levee construction and maintenance on its banks.

As respects the Yellow River, I have been unable to find any sufficient authority upon which this statement rests. A writer on China, by the name of Williams, makes mention of something of this kind, but does not support it by sufficient facts or reasoning.

[Here the hammer fell.]

The CHAIRMAN. The gentleman's hour has expired.

Mr. BLANCHARD. I ask unanimous consent to proceed further.

The CHAIRMAN. The gentleman from Louisiana asks unanimous consent to proceed, for how much longer time?

Mr. BLANCHARD. To finish my remarks.

The CHAIRMAN. The gentleman asks unanimous consent for an indefinite extension of his time.

Mr. KEER, of Iowa. Before consent is given I would like to know how much time is to be allowed for the discussion of this bill.

Several MEMBERS (to Mr. KEER, of Iowa). Oh, let him go on.

Mr. BLANCHARD. I will not occupy much longer time.

The CHAIRMAN. The Chair hears no objection.

Mr. BLANCHARD. Mr. Chairman, levee construction as a means of preventing floods upon rivers is of very ancient origin. Semiramis, Queen of Assyria, erected dikes along the Euphrates to prevent the lowlands from being inundated, and Nitocris faced the banks of that great river with burned bricks in order to protect the sides of the channel from abrasion.

Most of the rivers of Europe have been diked or leveed as a preventive against floods. The Po, the Rhine, the Vistula, the Arno, the Scheldt, the Meuse, and others are thus leveed, and in consequence a disastrous inundation in Europe is now a thing of rare occurrence. Some of the works on these rivers are of great magnitude. Upon the Vistula, for instance, the levees are 20 feet high and as many broad at the top. The outlet system is not resorted to in Europe as a means of preventing floods. Outlets have been tried in the silt-bearing streams of that continent and discarded. The division formerly made of the Po at Buondeno was abandoned in the year 1838.

Robinson in his "Theory of Rivers" states that in the year 1600 the waters of the Panaro, a river of nearly equal size with the Po, were joined with those of the latter, and that in 1720 another river, almost as large, the Rheno, was diverted from its former course and made to flow into the Po. In both instances much alarm was felt by the dwellers in the valley of the Po that this cumulation of waters would result in disastrous overflows. But the reverse was true. The increased volume of water and consequent increased velocity of current caused the Po to deepen and widen its channel, the liability to overflow was greatly diminished, and several extensive marshes which, prior to that time, could not be reclaimed, were drained and rendered susceptible to habitation and cultivation.

If this be true as to the rivers of Europe, why should it not be true as to the Mississippi River? All the engineers whose sphere of duty brings them in contact with the river say it is true of it.

We hear much of the proposed Lake Borgne outlet from the Mississippi River. This plan is not new. It was examined carefully by Humphreys and Abbot, two United States engineers of long experience and great capacity, who studied the physics and hydraulics of the Missis-

Mississippi River in 1858, and wrote most intelligently upon it. They rejected the Lake Borgne outlet proposition as altogether inadvisable.

Mr. BUTTERWORTH. Do I understand my friend to say that Humphreys and Abbot in their report condemn the outlet system?

Mr. BLANCHARD. I unhesitatingly say that Humphreys and Abbot in their report condemn the Lake Borgne outlet plan as inadvisable and without merit.

Mr. BUTTERWORTH. But without reference to any particular outlet, will my friend say that in the Humphreys and Abbot report they have decided that the outlet system was not efficacious and desirable? It is fair to say that I was one of the subcommittee appointed in 1883 to investigate this subject, as the gentleman will remember, and I think an examination of the report made by Humphreys and Abbot will not bear out what I understand to be the gentleman's statement with reference to outlets.

Mr. BLANCHARD. Well, Mr. Chairman, the best answer to make to my friend from Ohio is to quote the language of Humphreys and Abbot themselves. Replying to Ellet, who was the earliest writer on the Mississippi River, and who advocated outlets as a means of preventing floods, they say:

The task of criticism is always ungrateful, and if this formula had been prepared by an obscure writer it would have remained unnoticed. Coming, however, from an engineer so well known as Mr. Ellet, and furnishing, as it does, the basis upon which rest practical conclusions believed to be most erroneous and most mischievous, it can not be passed by in silence.

Then, after discussing at length the outlet theory, they say:

No further comments are necessary to prepare one to learn that the practical conclusions of Mr. Ellet in reference to protection against the inundations of the Mississippi have been proved to be erroneous by the measurements of this survey.—*Humphreys and Abbot*, edition 1876, pages 227, 228.

The same authors, while acknowledging that, theoretically, outlets of a certain kind might do a certain amount of good, declare absolutely against the practicability of outlets on the Mississippi below Cairo, in the following terms:

Enough has been said to demonstrate with all the certainty of which the subject is capable, the disastrous consequences that must follow the resort to this means of protection [outlets].—*Humphreys and Abbot*, edition 1876, page 428.

And in reference to the treatment which should be applied to the river to prevent floods, they use the following language:

RECOMMENDATIONS.

An organized levee system must be depended upon for protection against floods in the Mississippi Valley.

The preceding discussion of the different plans of protection has been so elaborate and the conclusions adopted have been so well established that little remains to be said under the head of recommendations.

It has been demonstrated that no advantage can be derived either from diverting tributaries or constructing reservoirs, and that the plans of cut-offs and of new or enlarged outlets to the Gulf are too costly and too dangerous to be attempted. The plan of levees, on the contrary, which has always recommended itself by its simplicity and its direct repayment of investments, may be relied upon for protecting all the alluvial bottom lands liable to inundation below Cape Girardeau. The work, it is true, will be extensive and costly, and will exact much more unity of action than has thus far been attained. * * *

It will be thus seen, Mr. Chairman, that Humphreys and Abbot declare against diverting tributaries, against constructing reservoirs, against cut-offs, and against outlets, but give to the levee system, as the means of protecting the alluvial valley from inundation, the sanction of their judgment and approval.

General Barnard, Bayley, Forshey, Albert Stein, and others who have written on the river, take the same view. Those mentioned were all accomplished engineers, with large opportunities of observation. With-

out exception they declared against outlets, both theoretically and practically.

Subsequently Mr. Eads added the results of his labors and great ability to the same side of the question.

Finally, the Mississippi River Commission, after most careful experiments and large experience, find themselves opposed unanimously to outlets, and in favor of controlling and confining the flood discharge to the main river or channel.

It is a hydrostatical paradox, uniformly confirmed by experience, that you do not diminish the height of the waters in great floods by lessening the quantity of water.

This is particularly true of our alluvial rivers of the South. It is, of course, acknowledged that the first effect of the withdrawal from the river, with a fall into an open basin, of a considerable part of its volume, will be to produce a lowering of its surface in the vicinity of the outlet. But the systematic improvement of the river and its treatment to prevent floods must be conducted with an intelligent knowledge of and reference to ultimate results. The ultimate result of diverting a considerable portion of the volume of water from the river is to increase its surface level.

At best the relief that an outlet would give would be only local and temporary; local, as certainly not exceeding anywhere 2 or 3 feet, and not extending over a hundred miles of river above the outlet; and temporary, since the inexorable laws of the river would surely in a very few years re-establish the adjustment between discharge, resistance, and slope.

Every break of the river from the main channel causes a lessening of the velocity of the current at and below the outlet, and this decrease of velocity causes a precipitation of sediment or silt in the bottom of the river. No greater uniformity and certainty has marked the results of any of the observations of the Mississippi River Commission than in the decrease of river section below an outlet, and, *vice versa*, its enlargement when the outlet is closed and the former regimen of the river restored.

Humphreys and Abbott, it is true, disputed the proposition that, as the result of an outlet, a bar was formed immediately below the break in the bed of the river; but fuller observations since their time have established its truth. And it stands to reason that if any considerable portion of the volume of water of a silt-bearing stream is diverted from the main channel, the force of the remainder is diminished, the normal condition of the river at that point is disturbed, and the weakened current is no longer capable of bearing along the load of sand and sediment. A part of it is cast down into the bed, the section of the river is decreased, and a bar or obstruction formed.

Now, Mr. Chairman, relative to this question of the duty of Congress to go further than they have gone in the past and make appropriations not only to improve the navigation of the river, but to prevent its disastrous floods, I wish to call the attention of the House, and especially the attention of my Republican friends, to some utterances on this subject by gentlemen who have occupied very exalted positions in our country at the hands of their party.

Mr. Garfield, in his letter of acceptance of the Presidential nomination of his party, July 10, 1880, made use of this language:

The wisdom of Congress should be invoked to devise some plan by which that great river shall cease to be a terror to those who dwell upon its banks, and by which its shipping may safely carry the industrial products of 25,000,000 of people.

At that time there were 25,000,000 of people in the valley of the Mississippi. To-day 35,000,000 are there.

In a speech on this floor he styled the Mississippi—

The most gigantic, single, natural feature of our continent, far transcending the glory of the ancient Nile, or of any other river on the earth.

He further declared that he believed that—

one of the grandest of our material interests—one that is national in the largest material sense—is this great river and its tributaries.

And that—

the statesmanship of America must grapple with the problem of this mighty stream; that it is too vast for any State to handle; too much for any authority less than that of the nation itself to manage.

In his day Mr. Garfield urged upon Congress to do what to-day I am urging it to do—to make a liberal and generous appropriation for the two fold purpose of aiding the navigation of the river and preventing its floods.

President Hayes, in his message of December, 1880, speaking of the Mississippi River and its tributaries, said:

These channels of communication and interchange are the property of the nation. Its jurisdiction is paramount over their waters, and the plainest principles of public interest require their intelligent and careful supervision with a view to their protection, improvement, and the enhancement of their usefulness.

Mr. Arthur, when he was President, sent a message to Congress on April 17, 1882, in which he made use of this language:

The immense loss and widespread suffering of the people dwelling near the river—

Occasioned by the great overflow of that year—

induce me to urge upon Congress the propriety of not only making an appropriation to close the gaps in the levees occasioned by the recent floods, as recommended by the commission, but that Congress should inaugurate measures for the permanent improvement of the navigation of the river and security of the valley.

Mr. Chairman, may not this Congress, Republican in both branches, venture to go as far as was recommended by the last three Republican Presidents preceding the present Executive? I hope so.

On this question of the protection of the magnificent alluvial valley of the Mississippi River from the inundations of that stream, I invoke the considerate judgment of this House and of the country. I have felt it my duty to present this matter at length to Congress in view of the great flood which has recently occurred on the river. I thank the House for its attention. [Loud applause.]

BLAN